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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,033	01/03/2001	Michael Wand	85-00	2017

23713 7590 10/29/2002

GREENLEE WINNER AND SULLIVAN P C
5370 MANHATTAN CIRCLE
SUITE 201
BOULDER, CO 80303

EXAMINER

WU, SHEAN CHIU

ART UNIT	PAPER NUMBER
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1756

DATE MAILED: 10/29/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/754,033

Applicant(s)

WAND ET AL.

Examiner

Shean C Wu

Art Unit

1756

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,11-15,17,20,28-32,37,39,40,44 and 45 is/are pending in the application.
- 4a) Of the above claim(s) 2-10,16,18,19,21-27,33-36,38 and 41-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,11-15,17,20,28-32,37,39,40,44 and 45 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other: .

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DETAILED ACTION

1. Claims 2-10, 16, 18-19, 21-27, 33-36, 38 and 41-43 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 9.

2. Applicant's election with traverse of the species of Claim 1 of formula 1586 (phenylpyrimidine core with fluorinated alkyl and silylalkyl-silylalkyl at two side groups) on page 73 in this specification in Paper No. 9 is acknowledged. The traversal is on the ground(s) that the generic claims 1 and 37 are allowable. This is not found persuasive because the claims 1 and 37 are not allowable.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

3. Claims 1, 11-15, 17, 20, 28-32, 37, 39-40 and 44-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claims 1 and 37, the notation j in R^1 is not defined. Also, the R^f group is not defined in Claim 37.

In Claim 15, the group W is not defined.

The claims 11-14, 17, 20, 28-32, 37, 39-40 and 44-45 are rejected because they are dependent claims.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 10, 28-30, 37 and 44-45 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 4427199.

The reference discloses pyridine derivatives, which is useful for liquid crystal mixture and display devices including SSFLC. The compounds have a phenylpyrimidine core or a biphenylpyridine with a fluorinated alkyl and a silylalkyl at two side groups. The ferroelectric liquid crystal mixture of the reference has phase transition from isotropic-nematic-smectic A-smectic C. See the compounds having a fluorinated alkyl and a silylalkyl at two side groups, such as compounds 51-52, 78, 88, 152-153, 179 and 189 in the specification. Also, see the compounds in CAPLUS 1996: 239763, which are the abstract of DE 4427199. The reference anticipates the claimed invention.

Allowable Subject Matter

6. Claims 11-14, 17 and 39-40 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shean C Wu whose telephone number is 703-308-3956. The examiner can normally be reached on Monday-Friday 9:30 -6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on 703-308-2464. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7718 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Shean C Wu
Primary Examiner
Art Unit 1756

scw
October 24, 2002